



DEPARTMENT OF DEFENSE

Department of the Army, Corps of Engineers

33 CFR Part 277

[COE-2020-0012]

RIN 0710-AB35

Water Resources Policies and Authorities: Navigation Policy: Cost Apportionment of Bridge Alterations

AGENCY: U.S. Army Corps of Engineers, Department of Defense.

ACTION: Final rule.

SUMMARY: This final rule removes the U.S. Army Corps of Engineers' part titled Water Resources Policies and Authorities: Navigation Policy: Cost Apportionment of Bridge Alterations. Each removed section of this part is out-of-date and otherwise covers internal agency operations that have no public compliance component or adverse public impact. Therefore, this part can be removed from the CFR.

DATES: This rule is effective on [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: Department of the Army, U.S. Army Corps of Engineers, ATTN: CECW-EC (Mr. Robert Bank), 441 G Street NW, Washington, DC 20314-1000.

FOR FURTHER INFORMATION CONTACT: Ms. Amy K. Frantz at (202) 761-0106 or by email at Amy.K.Frantz@usace.army.mil.

SUPPLEMENTARY INFORMATION: This final rule removes 33 CFR part 277, Water Resources Policies and Authorities: Navigation Policy: Cost Apportionment of Bridge Alterations. The rule was initially published in the Federal Register on May 30, 1979 (44 FR 31129). The regulation was promulgated to adapt Coast Guard procedures under the Truman-Hobbs Act in 33 U.S.C. 516 to Corps navigation project feasibility plan formulation, with regard

to apportionment of costs between Bridge Owners and the Government, when the Government requires bridge alteration to avoid obstruction of navigation. The underlying Coast Guard procedures for bridge alteration cost apportionment at 33 CFR 116.50 were updated in 1995 (60 FR 20902) while the Corps' regulation was never subsequently amended. The calculations for the cost apportionment are the responsibility of the Coast Guard and the Corps uses the current Coast Guard calculations in planning formulations for new projects when they involve bridges falling under the Truman-Hobbs Act. The rule was published, at that time, in the Federal Register to aid public accessibility. The solicitation of public comment for this removal is unnecessary because the rule is out-of-date and otherwise covers internal agency operations that have no public compliance component or adverse public impact. Applicable guidance on bridge alteration cost apportionment is found in current Coast Guard procedures at 33 CFR 116.50, Apportionment of costs under the Truman-Hobbs Act. For current public accessibility purposes, the internal implementing process for the applicable guidance is in Engineer Regulation 1165-2-25, "Navigation Policy: Cost Apportionment of Bridge Alterations" (available at https://www.publications.usace.army.mil/Portals/76/Publications/EngineerRegulations/ER_1165-2-25.pdf?ver=2013-09-08-233442-167). The agency policy is only applicable to field operating activities having Civil Works responsibilities and provides guidance specific to the Corps' policies and guidelines for the apportionment of bridge alteration costs required in connection with navigation improvements recommended in reports transmitted to the Chief of Engineers for approval or submitted to Congress for authorization.

This rule removal is being conducted to reduce confusion for the public as well as for the Corps regarding the current policy which governs the Corps' cost apportionment of bridge alterations. Because the regulation does not place a burden on the public, its removal does not provide a reduction in public burden or costs.

This rule is not significant under Executive Order (E.O.) 12866, "Regulatory Planning and Review."

List of Subjects in 33 CFR Part 277

Bridges, Coast Guard, Navigation (water).

PART 277—[REMOVED]

Accordingly, by the authority of 5 U.S.C. 301, 33 CFR part 277 is removed.

Approved by:

Michael L. Connor

Assistant Secretary of the Army

(Civil Works)

[FR Doc. 2023-00538 Filed: 1/13/2023 8:45 am; Publication Date: 1/17/2023]